

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF RHODE ISLAND

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In re:	:	
M&L POWER SERVICE, INC.,	:	BK No. 08-12745
Debtor	:	Chapter 7
	:	
JOSEPH M. DIORIO,	:	
CHAPTER 7 TRUSTEE	:	
Plaintiff	:	
	:	
v.	:	A.P. No. 09-1002
	:	
NATASHA ALLIDRI	:	
Defendant	:	

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ORDER GRANTING SUMMARY JUDGMENT

Heard on the Plaintiff's Amended Motion for Summary Judgment pursuant to Fed. R. Bankr. P. 7056, against Defendant Natasha Allidri on Counts I and II of the Complaint, to avoid check transfers from the Debtor to the Defendant as fraudulent, under 11 U.S.C. § 548. Attached to the Motion is the Affidavit of Craig Jalbert.

The Defendant bases her objection solely on the argument that the Motion "is not supported by admissible evidence," i.e., that the financial statements relied upon by Mr. Jalbert were unaudited. The United States Court of Appeals for the First Circuit, however, has held explicitly that "unaudited financial statements may be admissible as the best available evidence." *Consove v. Cohen (In re Roco Corp.)*, 701 F.2d 978, 983 (1st Cir. 1983) (citations

omitted). The Debtor does not have audited financial statements for 2007, so the unaudited monthly balance sheet that is relied on in Craig Jalbert's affidavit is the best available evidence of the Debtor's financial condition.

Therefore, based on the pleadings, the exhibits, and the Jalbert affidavit, the Plaintiff's Amended Motion for Summary Judgment is **GRANTED**. The hearing scheduled for August 19, 2010 at 10:00 a.m. is **VACATED**.

Enter Judgment consistent with this Order.

Dated at Providence, Rhode Island, this 18th day of August, 2010.



Arthur N. Votolato
U.S. Bankruptcy Judge

Entered on docket: 8/18/10